IN THE HIGH COURT OF BOMBAY AT GOA.

CIVIL REVISION APPLICATION NO. 111 OF 2001.

1. Smt. Urmila Laxman Mhaldar,
   (since deceased)
   Through her legal representatives:-

   a) Shri Deepak Laxman Mhaldar,
      major.

   b) Smt. Deepmala Deepak Mhaldar,
      major.

   c) Shri Pradeep Laxman Mhaldar,
      major.

   d) Smt. Pushpa Pradeep Mhaldar,
      major, all residents of Chonsai
      vaddo, Pernem Taluka.

   e) Shri Avinash Laxman Mhaldar,
      major.

   f) Smt. Ashwini Avinash Mhaldar,
      major, resident of Mumbai.

2. Shri Pradeep Laxman Mhaldar,
   major, son of Laxman Mhaldar.

3. Shri Deepak Laxman Mhaldar,
   major, married,
   both residents of Parshem,
   Pernem Taluka. ... Petitioners.

VERSUS

Shri Vasant alias Govind
Ramakant Mhaldar,
residing at Choizai vaddo,
Parshem, Pernem, Goa. ... Respondent.

Mr. S.D. Lotlikar, Senior Advocate with Mr. A.D. Bhobe, Advocate for the Petitioners.

Mr. Sudin M. Usgaonkar, Advocate for the Respondent.

CORAM: S. RADHAKRISHNAN, J.

DATE: 17TH AUGUST, 2002.

ORAL JUDGMENT:

Heard the learned counsel for the Petitioners and the Respondent.

2. The Civil Revision Application is against an Order dated 12th June, 2001 passed by the learned Civil Judge Jr. Div., Pernem, Goa. By the said Order, the learned Civil Judge J.D. has recalled the earlier Order whereby the issue of tenancy was referred to the Mamlatdar. Aggrieved by the said Order, the present Petitioners have filed this petition challenging the same.

3. After hearing the parties for some time, both the learned counsel agreed that this issue can be referred back to the Mamlatdar, namely the Issue reads as under :-

> " Whether the Defendants prove that the Civil Court has no jurisdiction to decide the Suit as the defendants are tenants of the northern portion of the suit property as shown in the sketch/plan ?"

4. The learned counsel for both the parties brought to my notice the provisions of Section 56 of

the Goa, Daman and Diu Agricultural Tenancy Act, 1954 as well as Section 7 of the Act. Section 7 is wide enough for the Mamlatdar to decide whether at all this Act would apply in the facts and circumstances of this case and if it applies, whether the Civil Court has jurisdiction or not. All these issues the Mamlatdar can decide. In the facts and circumstances of the case as the Suit is pending for almost over ten years, the Mamlatdar of Pernem is directed to dispose of the aforesaid issue as expeditiously as possible, preferably on or before 1st March, 2003. In view of the same no further order is necessary in the Civil Revision Application.

5. In the facts and circumstances of the case, the impugned Order dated 12th June, 2001 passed by the Civil Judge, Junior Division, Pernem, is quashed and set aside. The Civil Revision Application stands disposed of accordingly.

S. RADHAKRISHNAN, J.

sl.